

## § 375.313

### § 375.313 Delegations to the Critical Energy Infrastructure Information Coordinator.

The Commission authorizes the Coordinator or the Coordinator's designee to:

(a) Receive and review all requests for critical energy infrastructure information as defined in § 388.113(c)(1).

(b) Make determinations as to whether particular information fits within the definition of CEII found at § 388.113(c)(1).

(c) Make determinations as to whether a particular requester's need for and ability and willingness to protect critical energy infrastructure information warrants limited disclosure of the information to the requester.

(d) Establish reasonable conditions on the release of critical energy infrastructure information.

(e) Release critical energy infrastructure information to requesters who satisfy the requirements in paragraph (b) of this section and agree in writing to abide by any conditions set forth by the Coordinator pursuant to paragraph (c) of this section.

[Order 630, 68 FR 9869, Mar. 3, 2003]

### § 375.315 Delegations to the Director of the Office of Energy Policy and Innovation.

The Commission authorizes the Director or the Director's designee to:

(a) Take appropriate action on:

(1) Any notice of intervention or motion to intervene, filed in an uncontested proceeding processed by the Office of Energy Policy and Innovation; and

(2) Applications for extensions of time to file required filings, reports, data and information and to perform other acts required at or within a specific time by any rule, regulation, license, permit, certificate, or order by the Commission.

(b) Undertake the following actions:

(1) Issue reports for public information purposes. Any report issued without Commission approval must:

(i) Be of a noncontroversial nature, and

(ii) Contain the statement, "This report does not necessarily reflect the views of the Commission," in bold face type on the cover;

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(2) Issue and sign requests for additional information regarding applications, filings, reports and data processed by the Office of Energy Policy and Innovation; and

(3) Accept for filing, data and reports required by Commission regulations, rules, or orders, or presiding officers' initial decisions upon which the Commission has taken no further action, if such filings are in compliance with such regulations, rules, orders or decisions and, when appropriate, notify the filing party of such acceptance.

[Order 736, 75 FR 32658, June 9, 2010]

## PART 376—ORGANIZATION, MISSION, AND FUNCTIONS; OPERATIONS DURING EMERGENCY CONDITIONS

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AUTHORITY: 5 U.S.C. 553; 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR 1978 Comp., p. 142.

SOURCE: 45 FR 21222, Apr. 1, 1980, unless otherwise noted.

### Subpart A—Organization, Mission, and Functions

#### § 376.101 Purpose.

This subpart sets forth the organization, mission and functions of the Commission, and its offices and divisions.

#### § 376.102 Organization.

The Commission is established as an independent regulatory Commission within the DOE by the DOE Act. The Commission is composed of five members appointed by the President, by and with the advice and consent of the Senate. One of the members is designated by the President as the Chairman. To carry out its mission and functions, the Chairman has organized the Commission into a number of major offices, some of which are further organized into divisions and lower units. The organization of the Commission staff structure may be obtained from the Division of Public Information.

#### § 376.103 Mission.

The Commission is responsible for developing, managing, and directing energy regulatory programs and activities assigned to it by statute, executive orders, or by the Secretary, DOE. The Chairman serves as the chief executive officer of the Commission and is responsible for the conduct of all Commission executive and administrative functions. In carrying out its mission, the Commission and its employees are not subject to the supervision or direction of any other official of DOE.

#### § 376.104 Functions.

The functions of the Commission include:

- (a) All functions vested in the Commission under the DOE Act;
- (b) All functions delegated to the Commission by the Secretary of Energy in accordance with the DOE Act; and
- (c) All functions vested in the Commission by statute.

#### § 376.105 Chairman.

(a) *Administrative head of agency.* The Chairman is the administrative head of the Commission.

(b) *Administrative responsibilities.* The Chairman is responsible on behalf of the Commission for the executive and administrative operation of the Commission, including functions of the Commission with respect to—

- (1) The appointment and employment of Administrative Law Judges in accordance with the provisions of Title 5, United States Code.
- (2) The selection, appointment, and fixing of the compensation of such personnel as he deems necessary.
- (3) The supervision of personnel employed by or assigned to the Commission, except that each Commissioner may select and supervise personnel for his personal staff.
- (4) The distribution of business among personnel and among administrative units of the Commission.
- (5) The procurement of services of experts and consultants in accordance with section 3109 of Title 5, United States Code.

[45 FR 21222, Apr. 1, 1980, as amended by Order 613, 64 FR 73407, Dec. 30, 1999]

### Subpart B—Commission Operation During Emergency Conditions

#### § 376.201 Emergency condition defined.

For purposes of this subpart, emergency conditions:

- (a) Shall commence:
  - (1) At the time of an armed attack upon the United States, or its territories or possessions;
  - (2) At the time the Commission is officially notified of the likelihood or imminence of such an attack; or
  - (3) At a time specified by the authority of the President; or
  - (4) At such time that the Commission's Continuity of Operations Plan is activated; and
- (b) Shall continue until the Commission is officially notified of the end of such conditions.

[45 FR 21222, Apr. 1, 1980, as amended by Order 680, 71 FR 42595, July 27, 2006]

**§ 376.202 Authority to move Commission offices.**

The Commission may provide for removal of its headquarters to any location in the United States for the duration of emergency conditions. Consistent with directives of the Chairman, the Commission officer or employee in charge of a regional office of the Commission may move such office to a new location in the United States for the duration of emergency conditions.

**§ 376.203 Mailing address of Commission during emergency conditions.**

The Chairman may direct that during the continuance of emergency conditions, communications, filings, reports, or other submittals to the Commission shall be addressed to the Federal Energy Regulatory Commission, Official Mail and Messenger Service, United States Postal Service to such or other address as the Commission may designate.

**§ 376.204 Delegation of Commission authority during emergency conditions.**

(a) *Delegation of authority to one or two Commissioners.* During emergency conditions, the Commission shall function as usual, if a quorum of the Commission is available and capable of acting. If by reason of such conditions a quorum of the Commission is not available and capable of acting, all functions of the Commission are delegated to the Commissioner or Commissioners who are available and capable of acting.

(b) *Delegation of authority to Commission staff.* (1) When, by reason of emergency conditions, there is no Commissioner available and capable of acting, the functions of the Commission are delegated to the first five members of the Commission staff on the list set forth in paragraph (b)(2) of this section who are available and capable of acting.

(2) The list referred to in paragraph (b)(1) of this section is:

- (i) General Counsel;
- (ii) Executive Director;
- (iii) Director of the Office of Energy Market Regulation;

(iv) Director of the Office of Energy Projects;

(v) Director of the Office of Electric Reliability;

(vi) Director of the Office of Enforcement;

(vii) Deputy General Counsels, in order of seniority;

(viii) Deputy Directors, Office of Energy Market Regulation, in order of seniority;

(ix) Deputy Directors, Office of Energy Projects, in order of seniority;

(x) Deputy Directors, Office of Electric Reliability, in order of seniority;

(xi) Deputy Directors, Office of Enforcement, in order of seniority;

(xii) Associate General Counsels and Solicitor, in order of seniority;

(xiii) In order of seniority, Assistant Directors and Division heads, Office of Energy Market Regulation; Assistant Directors and Division heads, Office of Energy Projects; Assistant Directors and Division heads, Office of Electric Reliability; Deputy Associate General Counsels; Assistant Directors and Division heads, Office of Enforcement;

(xiv) In order of seniority, Regional Engineers and Branch Chiefs of the Office of Energy Projects' regional offices; and Deputy Division Directors and Group Managers of the Office of Electric Reliability's regional offices.

(3) For purposes of paragraph (b)(2)(vii)–(xiv) of this section, order of seniority shall be based on the highest grade and longest period of service in that grade and, furthermore, for purposes of paragraph (b)(2)(xiii)–(xiv) of this section, order of seniority shall be without regard to the particular Office or Division or Branch or Group to which the member of staff is assigned.

(c) *Devolution of authority to Commission staff during emergencies affecting the National Capital Region.* (1) To the extent not otherwise provided by this section, during emergency conditions when the Chairman is not available and capable of acting, when no Commissioner is available and capable of acting, and when no person listed in paragraph (b)(2)(i) through (xiii) of this section who is located in the National Capital Region is available and capable of acting, the functions of the Commission are delegated, in order of seniority (as described in paragraph (b)(3) of this

section), to Regional Engineers and Branch Chiefs of the Office of Energy Projects' regional offices and Deputy Division Directors and Group Managers of the Office of Electric Reliability's regional offices.

(2) Such delegation shall continue until such time as the Chairman is available and capable of acting, one or more Commissioners are available and capable of acting, or persons listed in paragraph (b)(2)(i) through (xiii) of this section who are located in the National Capital Region are available and capable of acting.

(d) *Reconsideration of staff action taken under delegations.* Action taken pursuant to the delegations provided for in this section shall be subject to reconsideration by the Commission, acting with a quorum, within thirty days after the date upon which public notice is given that a quorum of the Commission has been reconstituted and is functioning.

[Order 778, 78 FR 21245, April 10, 2013]

**§ 376.205 Delegation of Chairman's authority during emergency conditions.**

When, by reason of emergency conditions, the Chairman is not available and capable of acting, his functions are delegated to the Commissioner available and capable of acting and who is designated by the President. Until such time as the President designates, or if no such Commissioner is designated, such functions are delegated to the Commissioner designated by the Chairman as Acting Chairman, but if such Acting Chairman is not available and capable of acting such functions are delegated to the Commissioner who is available and capable of acting and who has the longest tenure as a member of the Commission. If there is no Commissioner available and capable of acting, such functions are delegated to the person on the Commission staff who is available and capable of acting and who is highest on the list set forth in § 376.204(b)(2).

**§ 376.206 Delegation of functions of certain Commission staff members.**

When, by reason of emergency conditions, the Secretary, Director of any Office or Division, or officer in charge

of a regional office, is not available and capable of carrying out his or her functions, such functions are delegated to staff members designated by the Chairman to perform such functions. If no staff member so designated is available and capable of carrying out their functions, such functions are delegated to the next subordinate employee in the Office or Division of the highest grade and longest period of service in that grade. If no subordinate employee of the Office or Division is available and capable of carrying out their functions, such functions are delegated to the Commission employee of the highest grade and longest period of service in that grade who is available and capable of carrying out their functions.

[Order 680, 71 FR 42595, July 27, 2006]

**§ 376.207 Personnel and fiscal functions.**

Subject to modifications or revocation by authority of the Executive Director, during the continuation of emergency conditions authority to effect temporary appointments of such additional officers and employees, to classify and allocate positions to their proper grades, to issue travel orders, and to effect emergency purchases of supplies, equipment and services shall be exercised by the respective Directors of Offices and officials in charge of regional offices, their deputies, or staff in line of succession, as may be required for the discharge of the lawful duties of such organization.

[Order 613, 64 FR 73408, Dec. 30, 1999, as amended by Order 699, 72 FR 45328, Aug. 14, 2007]

**§ 376.208 Effect upon existing Commission requirements.**

All outstanding Commission orders, rules and regulations shall remain in force and effect during the continuance of emergency conditions, except to the extent modified in accordance with authority exercised under this subpart.

**§ 376.209 Continuity of Operations Plan and suspension of Commission operations.**

(a)(1)(i) *Activation of COOP and suspension of Commission operations.* The Commission's Continuity of Operations

Plan may be activated by the Chairman (or the Chairman's delegate pursuant to §376.205, as appropriate). In circumstances in which the Commission's Continuity of Operations Plan is activated, Commission headquarters operations may be temporarily disrupted in whole or in part or communications with Commission headquarters may be temporarily unavailable, either of which may prevent the public or the Commission from meeting regulatory or statutory requirements. After the Commission's Continuity of Operations Plan is activated, Commission operations other than emergency functions may be suspended in whole or in part by the Chairman (or the Chairman's delegate, as appropriate). The provisions of this section are effective upon activation of the Continuity of Operations Plan and the subsequent suspension of Commission operations, in whole or in part, and shall remain in effect up to 30 days, or such shorter time than 30 days as the Chairman (or the Chairman's delegate, as appropriate) determines to be appropriate, or such longer time than 30 days as the Commission (or the Commission's delegate pursuant to section 376.204 of this Part, as appropriate) determines to be appropriate. Resumption of Commission operations following activation of the Continuity of Operations Plan and any subsequent suspension of Commission operations, in whole or in part, may occur either simultaneously for all activities, or over time for just some activities, and in such manner and at such time, as the Chairman (or the Chairman's delegate, as appropriate) or the Commission (or the Commission's delegate, as appropriate) determines to be appropriate.

(ii) *Notification of COOP activation and, following such activation, notification of suspension of Commission operations.* During periods when the Commission's Continuity of Operations Plan is activated and, following such activation, when Commission operations are subsequently suspended in whole or in part, the Chairman (or the Chairman's delegate pursuant to §376.205, as appropriate) will notify the public that the Continuity of Operations Plan has been activated and that Commission operations have been

suspended in whole or in part by sending a press release announcing that fact to major wire services, industry press, and appropriate metropolitan area radio stations. The Commission's Web site (<http://www.ferc.gov>) or the Commission's alternative Web site (<http://www.fercalt.gov>), as appropriate, will be activated and a notice that the Continuity of Operations Plan has been activated and that Commission operations have been suspended in whole or in part will be prominently displayed thereon. The Web site or alternative Web site, as appropriate, will act as a resource for the press, industry, and general public. An additional press release will be sent to appropriate media outlets and a notice will be prominently displayed on the Commission's Web site or alternative Web site, as appropriate, when the Continuity of Operations Plan is deactivated and the Commission's headquarters are reopened or reconstituted and Commission operations resume.

(2) *Activities continued during COOP.* Notwithstanding other provisions of this section, during periods when the Commission's Continuity of Operations Plan is activated and, following such activation, when Commission operations are subsequently suspended in whole or in part, the Commission will continue to conduct emergency functions. As part of its emergency functions, the Commission will act on requests to ensure continued construction of essential natural gas facilities with sensitive construction timelines, on Commencement of Service requests, and on completion of dam safety work, in a manner consistent with the maintenance of environmental protections. Also as part of its emergency functions, the Commission will ensure that its personnel are available to respond to plant accidents or reportable incidents at LNG facilities, and to address dam safety, public safety, and security incidents at jurisdictional hydropower projects and to address other matters involving the safety of human life or protection of property. Alternate channels of communication will include measures to ensure that these activities can go forward unhindered.

(b) *Standards of conduct for transmission service providers.* During periods

when the Commission's Continuity of Operations Plan is activated and, following such activation, when Commission operations are suspended in whole or in relevant part, a Transmission Provider affected by the same emergency affecting the Commission may, for up to 30 days, or such other time as the Chairman (or the Chairman's delegate pursuant to § 376.205, as appropriate) may direct, delay compliance with the requirement to report to the Commission each emergency that resulted in any deviation from the standards of conduct within 24 hours of such deviation. If the emergency prevents such Transmission Provider from posting information on its OASIS or Internet Web site, the Transmission Provider may, for up to 30 days, or such shorter time as the Chairman (or the Chairman's delegate, as appropriate) may direct or such longer time as the Commission (or the Commission's delegate pursuant to § 376.204, as appropriate) may direct, also delay compliance with the requirements of § 358.4(a)(2) of this chapter to post this information on its OASIS or Internet Web site, as applicable.

(c) *Tolling of time periods for Commission action.* Unless otherwise directed, for those pending matters where the date that the Commission must act falls during the period when the Continuity of Operations Plan is activated and, following such activation, when Commission operations are suspended in whole or in relevant part and also during the 14 days thereafter, the Commission tolls, for purposes of further consideration, the time period in which the Commission must act. Such matters include:

(1) 60-day period to act on requests for Exempt Wholesale Generator or Foreign Utility Company status;

(2) 90-day period for acting on requests for certification of qualifying facility status;

(3) 60-day period for acting on interlocking directorate applications;

(4) 60-day period for acting on Public Utility Holding Company Act exemptions and waivers;

(5) 180-period for acting on applications under section 203 of the Federal Power Act;

(6) 150-day period for acting on intra-state pipeline applications for approval of proposed rates;

(7) Period ending 60 days prior to the Electric Reliability Organization's (ERO) fiscal year for acting on the ERO's budget;

(8) 60-day period for acting on notifications that a Reliability Standard may conflict with a function, rule, order, tariff, rate schedule or agreement;

(9) 60-day period for acting on applications for review of a penalty imposed by the ERO for violation of a Reliability Standard;

(10) 45-day protest period for protesting Prior Notice Filings, and the 30-day period for resolving and filing to withdraw such Protests;

(11) 30-day period for acting on requests for rehearing;

(12) Time periods for action by a presiding officer or the Motions Commissioner, as well as by the Commission, on motions to permit interlocutory appeals, interlocutory appeals and certified questions; and

(13) 90-day period for acting on applications requesting relief from, or reinstatement of, an electric utility's mandatory purchase obligation pursuant to section 210(m) of the Public Utility Regulatory Policies Act of 1978.

(d) *Suspension of certain requirements.* Unless otherwise directed, during periods when the Commission's Continuity of Operations Plan is activated and, following such activation, when Commission operations are suspended in whole or in relevant part, the requirements to file by a certain date are suspended when communications with Commission headquarters are unavailable such that filings, submissions, and notifications cannot be received by the Commission. Unless otherwise directed by the Chairman (or the Chairman's delegate pursuant to § 376.205, as appropriate), those filings, submissions, and notifications, the filing of which was suspended, will be due the first day that communications with Commission headquarters are available such that filings, submissions, and notifications can be received by the Commission. Such filings, submissions, and notifications include:

(1) Filings to comply with orders or notices, including orders or notices issued by the Commission, a presiding officer, and a Commission decisional employee (including the directors of the Commission's various offices and their delegates);

(2) Filings required to be made by a date certain either under the Commission's regulations, or under orders and notices issued by the Commission, a presiding officer, and a Commission decisional employee (including the directors of the Commission's various offices and their delegates); such filings include, e.g., briefs, motions, and answers to motions;

(3) Motions to intervene and notices of intervention, or protests;

(4) Comments responding to notices of inquiry, proposed rulemakings or technical conferences;

(5) Responses to data requests and deficiency letters issued either by the Commission or by a decisional employee pursuant to delegated authority;

(6) Self-reports of violations;

(7) Responses to staff audit reports;

(8) Contacts with the Commission's Enforcement Hotline;

(9) Accounting filings required by the Commission's Uniform Systems of Accounts;

(10) Forms required to be filed by a date certain;

(11) Notices of intent to file new applications and applications for new licenses pursuant to section 15 of the Federal Power Act;

(12) Requests for rehearing of orders and letter orders issued either by the Commission or by a decisional employee pursuant to delegated authority; and

(13) The Electric Reliability Organization's advising the Commission of the Electric Reliability Organization's intent to issue Level 1 Advisories, Level 2 Recommendations, and Level 3 Essential Actions, and the Electric Reliability Organization's reporting to the Commission on actions taken in response to Level 2 Recommendations and Level 3 Essential Actions.

(e) *Acceptance and suspension of rate and other filings.* Unless otherwise directed, if the date by which the Commission is required to act on rate and

other filings made pursuant to section 4 of the Natural Gas Act, section 205 of the Federal Power Act, and section 6(3) of the Interstate Commerce Act falls during a period when the Continuity of Operations Plan is activated and, following such activation, when Commission operations are suspended in whole or in relevant part and also during the 14 days thereafter, such filings shall be deemed to be accepted for filing and suspended and made effective on the requested effective date, subject to refund and further order of the Commission. The acceptance for filing and suspension of these filings is without prejudice to any further action the Commission may take with respect to these filings.

(f) *Electric Reliability Organization penalties.* Unless otherwise directed, if the date a penalty imposed by the Electric Reliability Organization under section 215 of the Federal Power Act would take effect falls during a period when the Continuity of Operations Plan is activated and, following such activation, when Commission operations are suspended in whole or in relevant part and also during the 14 days thereafter, review of such penalty by the Commission shall be deemed to be initiated and the penalty shall be stayed pending further action of the Commission.

(g) *Consistency of State action with Reliability Standard.* Unless otherwise directed, if the date by which a Commission determination under section 215 of the Federal Power Act as to whether a State action is inconsistent with a Reliability Standard is required to be made falls during a period when the Continuity of Operations Plan is activated and, following such activation, when Commission operations are suspended in whole or in relevant part and also during the 14 days thereafter, the effectiveness of the State action will be deemed to be stayed pending further action by the Commission.

(h) *Suspension of evidentiary hearings and related conferences and meetings.* During periods when the Continuity of Operations Plan is activated and, following such activation, when Commission operations are suspended in whole or in relevant part, all evidentiary

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hearings, prehearing conferences, settlement conferences, and other meetings before presiding officers are suspended, and any requirement that a presiding officer act on motions (including motions to permit interlocutory appeals and to certify questions) is also suspended. Service of data requests and other discovery, and responses thereto, by and to the Commission's Trial Staff is similarly suspended. Upon resumption of Commission operations in whole or in relevant part, such hearings, conferences and other meetings will be rescheduled, action on motions also will be rescheduled, and service of data requests and other discovery, and responses thereto, by and to the Commission's Trial Staff, will similarly be rescheduled, by the presiding officer or the Commission, as appropriate.

(i) *Enforcement Actions under the Public Utility Regulatory Policies Act of 1978.* Unless otherwise directed, if the date by which the Commission is required to act on a petition for enforcement action under section 210(h)(2) of the Public Utility Regulatory Policies Act of 1978 falls during a period when the Continuity of Operations Plan is activated and, following such activation, when Commission operations are suspended in whole or in relevant part, and also during the 14 days thereafter, the Commission will not initiate such an enforcement action under section 210(h)(2) of the Public Utility Regulatory Policies Act of 1978 and the petitioner may itself bring its own enforcement action in the appropriate court.

(j) *Chairman's and Commission's authority to modify deadlines and timeframes.* During periods when the Continuity of Operations Plan is activated and, following such activation, when Commission operations are suspended in whole or in part and also during the 14 days thereafter, the Chairman (or the Chairman's delegate pursuant to § 376.205, as appropriate), may shorten, and the Commission (or the Commission's delegate pursuant to § 376.204, as appropriate) may extend, with respect to the matters addressed in this section, as appropriate:

(1) The time periods and dates for filings with the Commission, a decisional employee, or a presiding officer;

(2) The time periods and dates for reports, submissions and notifications to the Commission, a decisional employee, or a presiding officer; and

(3) The time periods and dates for actions by the Commission, a decisional employee, or a presiding officer.

[Order 765, 77 FR 43490, July 25, 2012]

## PART 380—REGULATIONS IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT

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APPENDIX A TO PART 380—MINIMUM FILING REQUIREMENTS FOR ENVIRONMENTAL REPORTS UNDER THE NATURAL GAS ACT

AUTHORITY: 42 U.S.C. 4321–4370h, 7101–7352; E.O. 12009, 3 CFR 1978 Comp., p. 142.

SOURCE: Order 486, 52 FR 47910, Dec. 17, 1987, unless otherwise noted.

### § 380.1 Purpose.

The regulations in this part implement the Federal Energy Regulatory Commission's procedures under the National Environmental Policy Act of 1969 (NEPA). These regulations supplement the regulations of the Council on Environmental Quality, 40 CFR parts 1500 through 1508. The Commission will